

said justice of the peace to issue a *subpoena* for such witness, as either plaintiff or defendant may require.

1882, ch. 488. 1888, ch. 387.

165. All farms, forests, and other lands, in the third election or Vienna district, and in the first election or Fork district shall be fenced with post and rail, log or worm fences, well staked and ridered, and made of good and substantial materials; the said worm and log fences shall be at least four feet high from the ground to the upper rail or log, and the space between the said rails or logs for eighteen inches from the ground shall not exceed four inches, and for the balance of the fence shall not exceed six inches; the planks and all post and rail fences shall be not less than three feet and eight inches high, and the first plank or rail thereof shall be not more than four inches from the ground; the space between the second plank or rail shall not exceed five inches, and there shall not be a space between any plank or rail exceeding eight inches; and if any live stock of any kind or description whatever shall break into any person's enclosure, the same being of the height and sufficiency aforesaid, then the owner of such stock shall be liable to make good all such damages to the owner of such enclosure as shall be found and awarded by two or more judicious persons, to be appointed by any justice of the peace in and for the said election districts; the said persons to view the same under oath and make return before the justice of the peace by whom they were appointed; and the said damages may be recovered in the same manner as is now or hereafter may be provided by law for the recovery of small debts, together with the cost of the proceedings, including a fee of fifty cents to each assessor appointed by the justice to assess said damages, and also including a reasonable compensation to the owner so trespassed upon for the keeping of such trespassing stock if it shall be impounded, the same also to be found under oath by the assessors to be appointed as aforesaid; and any owner of such alleged trespassing stock, or owner of such land so as aforesaid trespassed upon, shall have the right of appeal to the circuit court from the judgment of the justice of the peace as in other cases provided by law; provided, that a hedge fence or any other kind of fence that shall, in the judgment of the